State of H.P. and others. ……. Respondents.

Coram

The Hon'ble Mr.Justice Deepak Gupta, Judge.

The Hon'ble Mr.Justice S.S.Thakur, Judge.

Whether approved for reporting?

For the petitioner: Mr. R.K. Sharma, Advocate.

For the respondents: Mr. M.S. Chandel, Advocate General with
Mr. R.M.Bisht, Dy.A.G. for respondents 1 & 2.

None for respondent No.3.

Deepak Gupta, J.(Oral).

When the post of Numberdar in village Jarot fell vacant on the death of Hari Singh, two persons applied for this post. One was the petitioner Onkar Singh who was the son of Hari Singh and one was Ashok Kumar. The field staff and S.D.O. (Civil), Nurpur recommended the name of the present petitioner. On perusal of the record, it is apparent that the name of the present petitioner was recommended mainly on the grounds that his father was the previous Numberdar. The District Collector, Kangra, appointed the

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Whether reporters of local Papers may be allowed to see the judgment?

remains that after restoration of the appeal counsel for the petitioner appeared in the case on two or three occasions. Thereafter the counsel for the petitioner did not appear and the present petitioner was proceeded against exparte and the appeal was decided by the Divisional Commissioner, Kangra on 14.7.1998. The Divisional Commissioner on merits held that Ashok Kumar had a better right to the post of Numberdar since he has a larger holding of land and was a matriculate, whereas the petitioner was a non-matriculate and was residing in Jammu in connection with his employment with the Railways. The appellant applied for setting aside the exparte order which application was rejected by the Divisional Commissioner. Thereafter, the applicant approached the Financial Commissioner, who also dismissed the revision petition on 30.5.2006.

More than 13 years have elapsed since the original order of the District Collector, Kangra, was passed. Therefore, we are of the view that we should decide the case on merit rather than remanding it back. On a consideration of the material placed on record, we find that other than being the son of the former Numberdar all other factors such as the size of the land holding, educational qualifications, age are in favour of Ashok Kumar. This court as well as apex court have already held the hereditary claim

C.M.P. No.1580 of 2006.

In view of the dismissal of the main writ petition, this application is also disposed of.

(S.S. Thakur)
Judge.

(Deepak Gupta)
Judge.

November 28,2006.
(PDS)